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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/596,165	06/02/2006	Srinivas Gutta	US030469US2	3089
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			EXAMINER VO, CECILE H	
			ART UNIT 2169	PAPER NUMBER
			MAIL DATE 02/01/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/596,165

Applicant(s)

GUTTA ET AL.

Examiner

/Cecile Vo/

Art Unit

2169

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>06/02/2006</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is a non-final Office Action in response to the present US application number 10/596,165, filed on 06/02/2006, which is a national stage entry of PCT/IB04/52604 International Filing Date: 11/30/2004, which claims benefit of Provisional 60/526,756, filed on December 03, 2003.
2. Claims 1-23 are presented for examination, with claims 1, 16, 22 and 23 being independent.
3. The reference cited in the IDS, PTO-1449, has been considered.

Specification

4. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.

- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).

5. The disclosure is objected to under 37 CFR 1.71, as being so incomprehensible as to preclude a reasonable search of the prior art by the examiner. For example, the following items are not understood: "*negative and positive example*".

Applicant is required to submit an amendment which clarifies the disclosure so that the examiner may make a proper comparison of the invention with the prior art.

Applicant should be careful not to introduce any new matter into the disclosure (i.e., matter which is not supported by the disclosure as originally filed).

Claim Objections

6. Claims 16-21 are objected to because of the following informalities: The use of number (i.e. 100, 200, 102, 104, 110, 114, 118, and 122) to association the term with the figures is unclear and confusing to the examiner what Applicant is referring to. The numbers should be deleted.

Appropriate correction is required.

Claim Rejections - 35 USC § 101

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. Claims 1-23 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 1 is a process. It includes the judicial exception of an abstract idea. There is no physical transformation is present to establish a practical application of the idea. The result (*determining a recommendation*) is useful only if at least made available for use in the disclosed practical application, concrete if the applying is based on objective criteria, and tangible if it's more than just a thought, instead being a real world result. In this instance, claim 1 does no appear to produce a tangible result such that the usefulness of the applying can be realized. It, therefore, appears to be non-statutory.

Claims 2-14 are rejected due to their dependence on the above rejected claim.

Claims 16-21 appears to recite a system but the components of the system are merely software per se. Software per se is not one of the four categories of invention. Software per se is not a series of steps or acts and thus is not a process. Software per se is not a physical article or object and as such is not a machine or manufacture.

Software per se is not a combination of substances and thus, is not a composition of matter. Therefore, claim 16-21 are non-statutory.

Claims 22 and 23 appear to claim a program, e.g. a computer program product. The program as recited in claims 22 and 23 are program listing and non-statutory as set forth in MPEP 2106.01 (I).

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 1-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Schaffer et al. (hereinafter referred to as Schaffer), US Pub. Number 2006/0026642 A1.

The applied reference has a common Assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Regarding claim 1, Schaffer discloses a method for generating a recommendation (see abstract, lines 1-5), the method comprising:

receiving at least one of a negative and positive example from one or more other users (e.g. The exemplary audience predictor uses the viewing histories of a number of users to predict the size of an audience for one or more programs identified in an electronic program guide, §0025, lines 3-7. Wherein, the viewing histories use to generate user profiles; and user profile provides corresponding positive and negative program example, §0036, lines 1-3); and

determining a recommendation for a user based on at least one of the negative and positive examples(e.g. The program recommendation process generates program recommendation scores for the programs in a time period of interest, based on the feature counts in the user profiles, §0045, lines 3-6).

Regarding claim 2, Schaffer discloses the method further comprising generating a user profile for the user based on previous behavior of the user, wherein the determining comprises determining the recommendation based on the negative example and the user profile (e.g. The profiling process processes the viewing histories to generate the corresponding user profiles, §0029, lines 1-2).

Regarding claim 3, Schaffer further discloses wherein the generating of the user profile comprises generating an implicit user profile (As shown in Fig. 3, the implicit user

profile 300 contains a plurality of records 305-313 each associated with a different program feature, §0035, lines 2-4).

Regarding claim 4, Schaffer further discloses wherein the determining comprises determining the recommendation based on the negative and positive examples (§0045, lines 3-6).

Regarding claim 5, Schaffer further discloses wherein the recommendation is a television program recommendation (§0021, lines 1-4).

Regarding claim 6, Schaffer discloses the method further comprising:
mapping the negative example to an electronic program guide database of the user (§0025, lines 3-7); and
determining an equivalent negative example for the user from the electronic program database (e.g. The program recommendation process generates program recommendation scores for the programs in a time period of interest, based on the feature counts in the user profiles, §0045, lines 3-6).

Regarding claim 7, Schaffer discloses the method further comprising:
mapping the positive example to an electronic program guide database of the user (§0025, lines 3-7); and

determining an equivalent positive example for the user from the electronic program database (§0045, lines 3-6).

Regarding claim 8, Schaffer discloses the method further comprising determining the one or more other users (e.g. a number of users, §0025, line 5).

Regarding claim 9, Schaffer further discloses wherein the determining comprises selecting the one or more other users based on geographical location of the one or more other users (e.g. selected for the user based on his or her demographics, §0036, lines 13-14).

Regarding claim 10, Schaffer further discloses, wherein the determining comprises selecting the one or more other users based on a similarity of likes and/or dislikes with the one or more other users (§0044, lines 1-7).

Regarding claim 11, Schaffer further discloses wherein the determining comprises selecting the one or more other users by the user (§0049, lines 1-6).

Regarding claim 12, Schaffer further discloses, wherein the selecting comprises: presenting a plurality of other users to the user (e.g. As shown in Fig. 1 the audience predictor 100 uses the raw viewing histories of a number of users to predict the size of an audience, §0025, lines 3-6); and

the user selecting from among the plurality of other users to determine the one or more other users (e.g. Fig. 3 is a table illustrating an exemplary implicit user profile contains a plurality of records each associated with a different program feature, §0035, lines 1-4).

Regarding claim 13, Schaffer further discloses, wherein the presenting comprises presenting the plurality of users based on geographical location of the one or more other users (§0021, lines 1-6).

Regarding claim 14, Schaffer further discloses, wherein the presenting comprises presenting the plurality of users based on a similarity of likes and/or dislikes of the one or more other users (e.g. Fig. 4 is a table from the program database of figs 1 and 2, with field 480 is record and indication of the predicted audience as determined by the audience prediction process, §0038, lines 1-2 ad 0039) .

Regarding claim 15, Schaffer further discloses, wherein the selecting comprises the user indicating the one or more other users (§0026, lines 1-5).

Regarding claim 16, Schaffer discloses an apparatus (100, 200) for generating a recommendation (e.g. the audience predictor 100, §0027), the apparatus comprising:
means (102, 104) for receiving at least one of a negative and positive example from one or more other users (e.g. The exemplary audience predictor uses the viewing

histories of a number of users to predict the size of an audience for one or more programs identified in an electronic program guide, §0025, lines 3-7. Wherein, the viewing histories use to generate user profiles; and user profile provides corresponding positive and negative program example, §0036, lines 1-3); and

a recommender (110) for determining a recommendation for a user based on at least one of the negative and positive examples (e.g. audience predictor uses the program recommendation 220 to predict the size of an audience, §0030, lines 1-8).

Regarding claim 17, Schaffer discloses the apparatus further comprising a display (114) operatively connected to the recommender for presenting a plurality of other users to the user (e.g. a set-top terminal of display, §0027, line 7).

Regarding claim 18, Schaffer discloses the apparatus further comprising means (118, 122) for selecting the one or more other users by the user from among the plurality of other users (§0044, lines 1-7).

Regarding claim 19, Schaffer further discloses, wherein the means for receiving at least one of a negative and positive example from one or more other users comprises a modem (102) (e.g. Program recommendation 220, §0030, lines 3-8).

Regarding claim 20, Schaffer further discloses, wherein the apparatus is a personal video recorder (100) (e.g. the audience predictor 100 may be embodied as any computing device, §0027, lines 1-2).

Regarding claim 21, Schaffer further discloses, wherein the apparatus is a television (200) (e.g. the television program recommender 100 may also be embodied as an application specific integrated circuit, in a set-top terminal or display, §0027, lines 5-7).

Regarding claim 22, Schaffer discloses a computer program product embodied in a computer-readable medium for generating a recommendation (§0027), the computer program product comprising:

computer readable program code means for receiving at least one of a negative and positive example from one or more other users (e.g. the program recommendations 220, §0032); and

computer readable program code means for determining a recommendation for a user based on at least one of the negative and positive examples (§0045, lines 3-6).

Regarding claim 23, Schaffer discloses a program storage device readable by machine, tangibly embodying a program of instructions executable by the machine to perform method steps for generating a recommendation (e.g. memory 260, §0033, lines 1-5), the method comprising:

receiving at least one of a negative and positive example from one or more other users (§0036, lines 1-3); and

determining a recommendation for a user based on at least one of the negative and positive examples (§0045, lines 3-6).

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Prokopenko et al., US 7,188,355 B1, discloses Television program recommendation system.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to /Cecile Vo/ whose telephone number is 571-270-3031. The examiner can normally be reached on Mon - Thu (9AM - 5:00PM EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mohammad Ali can be reached on 571-272-4105. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Application/Control Number:
10/596,165
Art Unit: 2169


Page 13

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January 25, 2008

/Cecile Vo/
Patent Examiner
Art Unit 2169

/HPham/


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SUPERVISORY PATENT EXAMINER